IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1782 of 2005

Between:

Golla Chinna Nagamma, W/o.Golla Chennappa,
Sulthampuram Village, Adoni Mandal, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool District.
2 The Revenue Divsional officer, Adoni, Kurnool District.
3 The Mandal Revenue officer, Adoni, Kurnool District.

.....RESPONDETS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the order of the 1st Respondent in dismissing the appeal vide proceedings Rc.CS3/ 421/2004 dt.11-01-2005 by confirming the proceedings of the 2nd Respondent in proceedings RC.M.1137/2004 dt.18-10-2004 without looking into the evidence produced by the petitioner as illegal, arbitrary, malafide against the provisions of Control order 2001 and consequently set aside the same.

Counsel for the Petitioner:MR.K.V.RAGHU VEER

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is working as a dealer of the fair price shop of Sulthampuram Village, Adoni Mandal, Kurnool District. The 2nd respondent issued a show cause notice, dated 23.09.2004 to the petitioner, directing him to explain as to why the

authorization of the petitioner should not be suspended in view of the allegations contained therein. The petitioner submitted his explanation. On consideration of the same, the 2nd respondent passed an order dated 18.10.2004 suspending the authorization of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent together with an application for stay. The 1st respondent rejected the application for stay on 30.10.2004 and dismissed the appeal on 11.01.2005. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The 2nd respondent meticulously followed the procedure prescribed under Section 5(4) of the A.P.State Public Distribution Control Order, 2001 (for short 'the Control Order') in proceeding against the petitioner. He issued a show cause notice framing certain charges against the petitioner and directed him to explain as to why his authorization should not be suspended. The petitioner submitted his explanation. The 2nd respondent has undertaken extensive discussion in relation to charges and recorded his own findings. However, when it came up to the question of imposing the punishment, he simply suspended the authorization of the petitioner without indicating the period therefor.

The Control Order contemplates two types of substantive punishments against the dealer viz., the suspension and the cancellation of authorization. It is mandatory to issue show cause notice before any such punishments are inflicted. It is only a suspension pending enquiry that need not precede enquiry.

By its very nature, the suspension by way of substantive punishment is required to be for a particular period. It is true that the Control Order does not stipulate the period for which the authorization of a dealer can be suspended by way of penalty. However, it has to be inferred that the suspension has to be for a specified period and such period has to be indicated by the appointing authority depending on the

gravity of the matter. There does not exist any scope for imposing the punishment of suspension for an indefinite period.

It is true that the petitioner availed of the remedy of appeal and the 1st respondent dismissed the same. However, the basic infirmity that has been pointed out above can be rectified by the 2nd respondent alone. The 1st respondent cannot substitute his opinion for that of the 2nd respondent nor can he uphold the suspension for an indefinite period.

It is evident that already more than three months have elapsed from the date of suspension. This Court permitted the petitioner to function as dealer through its order, dated 08.12.2004 in W.P.No.22704 of 2004. The second respondent shall pass an order, within two weeks from the date of receipt of copy of this order, stipulating the period for which, the suspension shall be in force. In the mean while, the petitioner shall be entitled to function as dealer. In case the 2nd respondent determines any specific period of suspension and the petitioner has not served that period of suspension, he shall cease to function as dealer, till the expiry of that period.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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07.02.2005

Note: Issue C.C. in two days.

(B/o)

Jsu

To

1 The Joint Collector, Kurnool District.
2 The Revenue Divsional officer, Adoni, Kurnool District.
3 The Mandal Revenue officer, Adoni, Kurnool District.

4 Two C.Cs to theG.P. for Civil Supplies, High Court Buildings,

Hyderabad (OUT).

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